

AMENDED IN ASSEMBLY MARCH 28, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2558

Introduced by Assembly Member Alby

February 21, 1996

An act to amend ~~Section 41953 of~~ *Sections 41950, 41951, 41953, and 41955 of*, and to add *Section 41956 to*, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2558, as amended, Alby. Solid waste: unlawful acts.

(1) Existing law, the California Integrated Waste Management Act of 1989, regulates the management and handling of solid waste and is administered by the California Integrated Waste Management Board. Existing law authorizes the imposition of specified damages or civil penalties for the unauthorized removal of specified recyclable materials. *A violation of those provisions is also a misdemeanor, punishable as prescribed.*

This bill would also authorize the imposition of those damages or civil penalties for the removal of specified segregated waste materials.

The bill would specify, that, unless otherwise provided by contract, from the time that recyclable materials are placed at the designated recycling location by any nonresidential entity, the recyclable materials are the property of the authorized recycling agent.

The bill would authorize a court, in any civil action by a recycling agent against a person alleged to have violated these provisions for a second, or subsequent time, in any 12-month period, to either allow treble damages, as measured by the market value of the recycled material removed, or award a civil penalty of not more than \$5,000, whichever is greater, for each unauthorized removal against the unauthorized person removing the recyclable material.

The bill would permit a violation where the value of the stolen material is more than \$50, but less than \$400, to be charged as either a misdemeanor or an infraction, thereby imposing a state-mandated local program by redefining a crime.

The bill would authorize the board to award special enforcement grants to cities or counties to support pilot programs designed to develop and evaluate enforcement techniques to reduce the theft of recyclable materials from nonresidential establishments.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 41950 of the Public Resources*
 2 *Code is amended to read:*
 3 41950. (a) No person, other than the authorized
 4 recycling agent of the city or county, shall remove paper,
 5 glass, cardboard, plastic, used motor oil, ferrous metal,
 6 aluminum, or other recyclable materials which have been
 7 segregated from solid waste materials and placed at a
 8 designated *recycling* collection location for residential
 9 curbside collection programs authorized by a city,
 10 county, or local agency for the purposes of collection and
 11 recycling.

(b) No person shall be subject to an action for a violation of this section, unless the person knows, or reasonably should know, that the materials would otherwise be collected by the authorized recycling agent for residential curbside collection programs authorized by a city, county, or local agency for the purpose of recycling the materials.

(c) From the time *that* the recyclable materials specified in subdivision (a) are placed for collection at curbside, for a residential curbside collection program authorized by a city, county, or local agency, the recyclable materials are the property of the authorized recycling agent.

SEC. 2. Section 41951 of the Public Resources Code is amended to read:

41951. (a) Unless otherwise provided by contract, paper, glass, cardboard, plastics, used motor oil, ferrous metal, aluminum, and other ~~waste~~ *recyclable* materials, which have been segregated from other waste materials, and placed at the designated *recycling* collection location by *any nonresidential entity*, shall not be removed by anyone other than the authorized recycling agent.

(b) *Unless otherwise provided by contract, from the time that the recyclable materials specified in subdivision (a) are placed at the designated recycling location, the recyclable materials are the property of the authorized recycling agent.*

SEC. 3. Section 41953 of the Public Resources Code is amended to read:

41953. (a) In any civil action by a recycling agent against a person alleged to have violated Section 41950 or 41951, the court may either allow treble damages, as measured by the ~~value of the market value of the~~ *recyclable* material removed, or award a civil penalty of not more than ~~one thousand dollars (\$1,000)~~ *two thousand dollars (\$2,000)*, whichever is greater, for each unauthorized removal, against the unauthorized person removing the recyclable material.

(b) *In any civil action by a recycling agent against a person alleged to have violated Section 41950 or 41951 for*

1 a second, or subsequent time, in any 12-month period, the
2 court may either allow treble damages, as measured by
3 the market value of the recyclable material removed, or
4 award a civil penalty of not more than five thousand
5 dollars (\$5,000), whichever is greater, for each
6 unauthorized removal against the unauthorized person
7 removing the recyclable material.

8 SEC. 4. Section 41955 of the Public Resources Code is
9 amended to read:

10 41955. ~~A violation of this part is~~ If the value of the
11 stolen material is more than fifty dollars (\$50), but less
12 than four hundred dollars (\$400), a violation of this part
13 may be charged as either a misdemeanor or an infraction.
14 A violation after a second conviction within a 12-month
15 period shall be charged as a misdemeanor punishable
16 pursuant to Section 19 of the Penal Code.

17 SEC. 5. Section 41956 is added to the Public Resources
18 Code, to read:

19 41956. The board may award special enforcement
20 grants to cities or counties to support pilot programs
21 designed to develop and evaluate enforcement
22 techniques to reduce the theft of recyclable materials
23 from nonresidential establishments.

24 SEC. 6. No reimbursement is required by this act
25 pursuant to Section 6 of Article XIII B of the California
26 Constitution because the only costs that may be incurred
27 by a local agency or school district will be incurred
28 because this act creates a new crime or infraction,
29 eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section
31 17556 of the Government Code, or changes the definition
32 of a crime within the meaning of Section 6 of Article
33 XIII B of the California Constitution.

34 Notwithstanding Section 17580 of the Government
35 Code, unless otherwise specified, the provisions of this act
36 shall become operative on the same date that the act
37 takes effect pursuant to the California Constitution.